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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,096	03/24/2004	Benjamin Alfred	14-0011	4155
7590 11/01/2005			EXAMINER	
Attn: Jeffrey A. Proehl Leonard & Proehl, Prof. L.L.C. Suite 250 3500 S. First Ave. Circle Sioux Falls, SD 57105-5807			LE, HUYEN D	
			ART UNIT	PAPER NUMBER
			3751	
DATE MAILED: 11/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

E

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/808,096	ALFRED, BENJAMIN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Huyen Le	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,6,7 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,7 and 9-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- 1. ☐ Certified copies of the priority documents have been received.
  - 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 6, 7, 9-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gross (3,021,532) in view of Leighton et al (5,384,918).

The Gross reference discloses a plunger for forcing debris through a trap of a toilet comprising a handle member is adapted for being gripped by a hand of a user (col. 2, line 1); a plunger portion 10 being coupled to the handle member, the plunger portion being adapted for being positioned in the bowl of the toilet, the plunger portion 10 being adapted for forcing a fluid down the trap of the toilet to force debris through the trap to allow the bowl of the toilet to drain; the plunger portion 10 comprising a bulb member being defined by a substantially spherical bulb wall ( col. 2, line 14), a sleeve member 32 having an interior in fluid communication with the bulb member; and the sleeve member 32 being defined by a substantially cylindrical sleeve wall extending from the bulb wall at a juncture and terminating at a substantially circular opening.

Although Gross does not disclose that the cylindrical sleeve wall has a uniform diameter from the juncture to the end opening of the sleeve wall, attention is directed to the Leighton et al reference which teaches a plunger 28 comprising a cylindrical sleeve wall 38 having a uniform diameter.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide a cylindrical sleeve wall having a uniform diameter on the Gross plunger device in view of the teaching of the Leighton et al reference, wherein doing so would be a matter of obvious design choice.

Regarding claim 6, the diameter of the sleeve member is less than the diameter of the bulb member 10 such that the reduction in diameter between the bulb member and the sleeve member accelerates the fluid being expelled from the bulb member through the sleeve member to increase pressure in the trap to facilitate forcing the debris through the trap of the toilet.

Regarding claim 7, the plunger portion comprises a plurality of annular rings 36,37,38, each of the annular rings outwardly extending from the sleeve member 32 such that each of the annular rings is positioned substantially perpendicular to a longitudinal axis of the plunger portion, the annular rings are adapted for engaging the surface of the bowl to provide a seal between the sleeve member and the bowl of the toilet to inhibit the fluid forced from the bulb member from blowing back between the sleeve member and the bowl of the toilet.

3. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gross (3,021,532) in view of Leighton et al (5,384,918).

The Gross reference discloses a plunger as described above.

Although Gross does not disclose that the diameter of the interior surface of the sleeve wall is approximately on-half of a maximum diameter of an interior surface of the bulb wall, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to select a certain diameter of the interior surface of the sleeve wall to best fit the of Gross plunger and to optimize its performance, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ (CCPA 1980).

4. Claims 1, 2, 6, 9, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grosvold (D159,726) in view of Leighton et al (5,384,918).

The Grosvold reference discloses a plunger for forcing debris through a trap of a toilet comprising a handle member is adapted for being gripped by a hand of a user); a plunger portion being coupled to the handle member, the plunger portion being adapted for being positioned in the bowl of the toilet, the plunger portion being adapted for forcing a fluid down the trap of the toilet to force debris through the trap to allow the bowl of the toilet to drain; the plunger portion comprising a bulb member being defined by a substantially spherical bulb wall, a sleeve member having an interior in fluid communication with the bulb member; and the sleeve member being defined by a substantially cylindrical sleeve wall extending from the bulb wall at a juncture and terminating at a substantially circular opening.

Although Grosvold does not disclose that the cylindrical sleeve wall has a uniform diameter from the juncture to the end opening of the sleeve wall, attention is directed to the Leighton et al reference which teaches a plunger 28 comprising a cylindrical sleeve wall 38 having a uniform diameter for allowing the cylindrical sleeve of the plunger to enter the drain line 34 for better cleaning effect.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the cylindrical sleeve of Grosvold plunger to a uniform diameter in view of the teaching of Leighton et al reference allowing the cylindrical sleeve of the plunger to enter the drain line for better cleaning effect

Regarding claim 6, the diameter of the sleeve member is less than the diameter of the bulb member such that the reduction in diameter between the bulb member and the sleeve member accelerates the fluid being expelled from the bulb member through the sleeve member to increase pressure in the trap to facilitate forcing the debris through the trap of the toilet.

5. Claims 7, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grosvold (D159,726) in view of Leighton et al (5,384,918) and further in view of Gross (3,021,532).

The Grosvold reference does not disclose that the sleeve member has a plurality of rings extending outwardly from the sleeve to provide a seal between the sleeve member and the bowl of a toilet, attention directed to the Gross reference which discloses another toilet plunger having a plurality of annular rings.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Grosvold plunger to include a plurality of annular rings in view of the teaching of the Gross reference for enhancing the sealing effect of the plunger with the toilet bowl.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grosvold (D159,726) in view of Leighton et al (5,384,918).

Although Gross in view of Leighton et al does not disclose that the diameter of the interior surface of the sleeve wall is approximately on-half of a maximum diameter of an interior surface of the bulb wall, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a certain diameter of the interior surface of the sleeve wall to best fit the of Gross plunger and to optimize its performance, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ (CCPA 1980).

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 2, 6, 7, 9-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Huyen Le  
Examiner  
Art Unit 3751

October 24, 2005

  
JUSTINE R. YU  
SUPERVISORY PATENT EXAMINER  
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10/27/05